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Art Unit 4121

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Customer No. 24498

REMARKS

Applicants This application has been reviewed in light of the Office Action dated October 3, 2008. Claims 1–29 remain in this application. Applicants have amended claims 2, 4, 6–7, 12–14, 22–24 and 27–29 both to overcome the Examiner's objections and to replace the terms "cookie" and URL with the phrases *message of the session* and *resource locator* which are more generic. Claims 1 and 22 has been amended for clarity and to further prosecution. No new matter has been added.

The present invention is directed to providing a way for a user of a local device to direct the transfer of data from one non-local device to a "remote site geographic drive" — this is called *Remote Site Downloading*. See applicants' specification, p. 1, lines 18–27. When the user is within range of the geographic drive's network, the user can then download the stored data to the local device. See applicants' specification, p. 8, lines 21–27. In order for the remote site geographic drive to authenticate to the non-local device, the local device gives the remote site a message of the session, typically in the form of a *cookie*, which is stored when the local device first requested the file. See applicants' specification, p. 10, lines 4–5 and p. 12, lines 22–31. One advantage of this arrangement is that the user can request data while using a slow connection, and then download it automatically when the user moves into range of a faster or cheaper network. See applicants' specification, p. 3, lines 22–27.

Objections

The Examiner has objected to claims 2–6, 9–11, 13–14, 16, 19–20 under 37 CFR §1.75(c) as being of improper dependent form for failing to further limit the subject matter of the previous claim. The Examiner has also objected to claims 23–24, 27, and 29 for depending from the wrong claims.

The Examiner's objection to claim 2 is based on the "adapted to" language. The Examiner asserts that such language does not limit the invention, and that as a result none of the language following that phrase is to be read. Although applicants disagree with this interpretation of MPEP § 2111.04, which explicitly states that the interpretation of

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"adapted to" depends on the facts of the case, claim 2 has been amended to recite the language "configured to" instead. It is respectfully asserted that claim 2 as amended is of proper dependent form.

The Examiner's objection to claims 3-6, 16, and 19-20 is based on the assertion that these claims do not recite any further *step* to limit to limit the method claims from which they depend. 37 CFR 1.75(c) states, "One or more claims may be presented in dependent form, referring back to and further limiting another claim or claims in the same application." While it is true that these claims do not provide further limiting *steps*, they nevertheless recite further limitations on the claims. Each of these claims further defines an element already recited in one of the steps of the parent claims. Claim 3 recites, "wherein the RSD program is a plug-in in a web browser", claim 4 recites, "wherein the cookie is a set of data comprising . . .", claim 5 recites, "wherein the session is a web session", claim 6 recites, "wherein the cookie is a web browser cookie", claim 16 recites, "wherein the geographic drive is a location dependent storage on a local computer comprising . . .", claim 19 recites, "wherein the content file is a multimedia file", and claim 20 recites, "wherein the content file is a movie file." In each of these instances, the dependent claim modifies and limits the elements used by one of the steps of the parent claims. For example, the step of "selecting a movie file to be downloaded from the content server" is more limiting than the step of "selecting a content file to be downloaded from the content server."

By limiting the elements within the individual steps of their parent claims, these claims provide further limitation. Applicants respectfully assert that claims 3-6, 16, and 19-20 are of proper dependent form.

The Examiner's objection to claims 13-14 are similar to previously discussed objections. The Examiner asserts that the elements of "RSD server program" and "mobile computer" do not further limit the steps of establishing, selecting a content file, selecting a remote site, receiving, packing, sending, or using the packed information. However, limiting the remote site geographic drive to be a mobile computer necessarily limits the step of "selecting a remote site geographic drive." The same is true for the step of "sending to a remote site computer." Even though the claims do not introduce new steps,

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they nevertheless provide further limitations to their parent claims. It is therefore respectfully asserted that claims 13–14 are of proper dependent form.

The Examiner has objected to claims 23–24, 27, and 29 for depending from the wrong claims. These claims have been amended and such amendments overcome the Examiner's objections.

Rejections

Claims 22–27 stand rejected under 35 U.S.C. § 112, second paragraph, as failing to particularly point out and distinctly claim the subject matter which comprises the invention.

The Examiner cites *IPXL Holdings LLC v. Amazon.com, Inc.*, 77 USPQ2d 1140 (Fed. Cir. 2005). *IPXL Holdings* concerned a system claim which recited the language, “the user uses the input means to. . .”, and the court held that a claim which combines a system and a method for using that system is indefinite.

Claim 22 recites, “a system for remote site downloading comprising a local computer configured to enable selection of a geographic drive and for packing information comprising a session cookie and a URL and sending the packed information to a remote site computer for automatic downloading of a content file selected during a session between the computer and a content server.” Claim 22 recites a system, but does not recite a method for using that system. Each of the elements above (i.e., *enable selection*, *packing*, and *sending*) represents a function which the computer can perform. None of them represents a method for using that computer. At most, the language of claim 22 is functional language. In the context of describing the actions that a device can perform, such functional language is appropriate to describe the claimed invention. Applicants maintain that claim 22 is clear and definite. Because claims 23 and 24 each depend from claim 22, claims 23 and 24 are also clear and definite.

Claim 25 recites,

programming in the first computer comprising a browser RSD plug-in which enables identification of a remote computer geographic drive for receiving and storing the selected content file, packs information

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comprising a cookie, and sends the packed information comprising the cookie to the remote computer, the packed information comprising a cookie functioning to cause the remote computer to automatically requested the content web server to download the content file to the geographic drive.

As discussed above with respect to claim 22, each of actions recited (i.e., *enables identification, packs information, sends the packed information, and functioning to cause the remote computer to automatically*) represents an action performed by the computer. In this context, functional language is appropriate. Each action is part of the innate functioning of the system, and none of them is a method for using that system. It is therefore believed that claim 25 is clear and definite.

Claim 26 recites, “means for providing a proxy comprising a cookie and a URL which controls the downloading of the content file”. Again, this language is simply descriptive of what the elements of the claimed system do. It is functional language which further describes the URL. It does not represent a method for using the claimed system. It is therefore believed that claim 26 is clear and definite. Because claim 27 depends from claim 26, and because claim 27 does not recite a method for using the system, it is believed that claim 27 is also clear and definite.

Claims 22–29 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

The Examiner first asserts that in claim 26, which recites “a system for facilitating the transferring of a content file . . . comprising means for providing a proxy . . . and means for transmitting,” the elements of “means for providing” and “means for transmitting” render the claim non-statutory. It is not clear what the Examiner’s basis is for asserting this. Means-plus-function language is expressly recognized in the MPEP as a legitimate limitation on a machine invention. *See* MPEP § 2106(II)(c). “USPTO personnel are to give the claimed means plus function limitations their broadest reasonable interpretation consistent with all corresponding structures or materials described in the specification and their equivalents.” *Id.* It is therefore believed that claim 26 is directed to statutory subject matter. Furthermore, because claim 27 depends from claim 26, and

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because it contains no non-statutory subject matter, it is believed that claim 27 is also directed to statutory subject matter.

The Examiner next asserts that with respect to claim 28, which recites, “a plug-in program for a web browser to be employed on a local computer, the plug-in program enabling transfer of a content requesting session”, a “plug-in program” is outside the bounds of statutory subject matter. However, the plug-in recited in claim 28 is “to be employed on a local computer.” This directly ties the plug-in to a particular machine, and the plug-in acts to modify the behavior of that machine so as to allow it to, among other things, transfer a content requesting session. As a result, the plug-in of claim 28 produces a real, tangible result in response to an event. It is therefore respectfully asserted that claim 28 is directed to statutory subject matter.

Furthermore, claim 29 recites “a web browser having the plug-in program of claim 28.” Following the same logic as above, a web browser having such a plug-in program is tied to a particular machine and modifies the behavior of that machine, producing a real, tangible result. It is therefore also respectfully asserted that claim 29 is directed to statutory subject matter.

The Examiner also asserts that claims 22–27 recite systems and methods of using those systems. This argument has been addressed above with regard to the Examiner’s objection as to the indefiniteness of the same claims. Claims 22–27 are system claims with functional language that describes the various elements of those claims. At no point do the claims recite methods for using the system. Because claims 22–27 are directed solely to systems, and not to a method, it is respectfully asserted that claims 22–27 are directed to statutory subject matter.

Claim 22 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Dell.

The Examiner’s rejection of claim 22 is based on the “adapted to” language. The Examiner asserts that such language does not limit the invention, and that as a result none of the language following that phrase is to be read, leaving only “comprising a local computer.” Although Applicants disagree with this interpretation of MPEP § 2111.04, which explicitly states that the interpretation of “adapted to” depends on the facts of the

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case, claim 22 has been amended to recite the language "configured to" instead. It is believed that this amendment overcomes the Examiner's rejection.

Claims 1-9, 11, 13, 15, 16, 18-20, 22-27, and 29 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Publication No. 2001/0055951 to Slotznick (hereinafter "Slotznick").

Claim 1 recites, inter alia, "selecting a remote site geographic drive to which the content file is to be downloaded from the content server wherein the remote site computer uses the packed information to download the selected content file to the selected geographic drive." Claims 22 and 25 recite analogous language concerning geographic drives and remote site computers. The present invention deals with a technique for downloading content from a content server to a remote geographic drive. The claims explicitly use the words *local* and *remote* to refer to the location of the user and the devices. In contrast, Slotznick does not disclose anything resembling a *remote* site geographic drive or a *remote* site computer.

Slotznick discloses a phone and a *local* control device connected to a display. The *local* control device downloads content from a remote location. See Slotznick, ¶¶ 92, 96. The phone communicates directly with the local control device to give it commands. See Slotznick, ¶ 95. The above described structure and operation matches neither the language, nor the function of the present claims, which recite *remote* site devices. Slotznick never accomplishes "remote site downloading," because the user is present at the download site. As such, Slotznick does not and cannot disclose or suggest selecting a *remote site* geographic drive, or that the *remote site* computer downloads selected content files.

Claim 1 further recites, "receiving at least one message of the session [and] packing information comprising the message and the resource locator." Claims 22 and 25 both recite analogous language relating to the use of session messages. The specification describes these messages as cookies and describes how they are used:

In a web browser, session control is made by using cookies, which are parameters stored by a web browser for each website. Cookies are sets of data containing information about a web session and often comprise authentication information, authorization information, and/or session

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duration information. By transferring the cookies, the web session can, in effect, be transferred. A web server authorizes a client action by checking the validity of the cookies using the HTTP protocol. As long as the client side gives the valid cookies in the HTTP header, a protected transaction can be authorized. When the plug-in program packs the IMS message, it also includes the cookies in the RSD parameter file. The cookies can be used on the remote site in order to authorize a content downloading. *See applicants' specification*, p. 12, lines 14-24.

The specification also says, "Only if the right cookie is sent back is the content accessible." *See applicants' specification*, p. 10, line 5.

It is clear then that cookies are a necessary component in authentication and retrieval of the downloaded data. The Examiner asserts that the claimed use of cookies is disclosed by Slotznick in paragraphs 93 and 95. However, paragraph 93 states that, "Content, or a portion thereof, and an electronic address of the content are stored in the telephone device." Paragraph 95 goes on to say, "The *electronic address* of the content is communicated from the telephone device to the local control device." This cannot be a session message (e.g., a cookie) as claimed by the present specification, because it has no authentication function. A cookie is distinct from a URL, and Slotznick does not describe anything which has characteristics that match the present specification's definition of a cookie. Slotznick does not use the "content" or the "electronic address" of paragraphs 93 to authenticate or to transfer a session, nor does the reference deal with those subjects anywhere else. Therefore, it is respectfully asserted that Slotznick does not disclose or suggest receiving or packing cookies.

As to claim 29, because the claim as amended no longer depends from claim 27, it is respectfully asserted that the Examiner's § 102 rejection of claim 29 is moot.

For at least the above reasons, it is respectfully asserted that Slotznick does not disclose or suggest all of the elements of claims 1, 22, or 25. It is therefore believed that claims 1, 22, and 25 are in condition for allowance. Furthermore, because claims 1-9, 11, 13, 15, 16, 18-20, and 22-27 depend directly or indirectly from claims 1, 22, and 25, it is also believed asserted that those claims are in condition for allowance.

Claims 1, 10, 12, and 14 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,507,727 to Henrick (hereinafter "Henrick").

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Claim 1 recites, inter alia, "receiving at least one message of the session, packing information comprising the cookie of the session and the resource locator, [and] sending the packed information to a remote site computer from the local computer." As discussed in detail above, a cookie comprises authentication information and allows a transfer of web sessions. Henrick does not mention cookies, either by name or by function, and would have no need for them. In Henrick, the local device *never* communicates with the PC. Referring to Fig. 3 of Henrick, the user contacts a server from a cell phone and purchases a song. *See* Henrick, blocks 304 and 312, and col. 4, lines 17-19. The server then transfers the requested information directly to the PC. *See* Henrick, block 314 and col. 5, lines 11-31. Because the server is communicating directly to the PC, there is no need for cookies at all.

Although applicants believe that the claim language as filed was in condition for allowance, claim 1 has been amended to emphasize that the packed information is sent to a remote site computer *from a local computer*. It is believed that this amendment provides additional clarity to the claim language. Even if, *arguendo*, Henrick did disclose or suggest cookies, it certainly does not disclose or suggest cookies sent to a remote computer from the local computer.

It is therefore respectfully asserted that Henrick does not disclose or suggest all elements of claim 1. As a result, it is believed that claim 1 is in condition for allowance. Furthermore, because claims 10, 12, and 14 depend from claim 1, they contain all of claim 1's limitations. It is therefore also believed that claims 10, 12, and 14 are also in condition for allowance.

Claims 17, 21, and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Slotznick.

Because claims 17 and 21 depend directly or indirectly from claim 1, they contain all of the limitations of claim 1. In light of the above arguments, it is respectfully asserted that Slotznick does not disclose or suggest all of the elements of claims 17 or 21, and that these claims are in condition for allowance.

Claim 28 recites, "a plug-in program enabling transfer of a content requesting session by packing information comprising one or more cookies." As discussed above,

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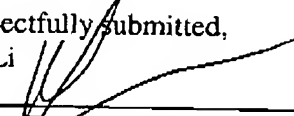
Slotznick does not disclose or suggest the use of cookies. It is therefore respectfully asserted that Slotznick does not disclose or suggest all of the elements of claim 28. As a result, it is believed that claim 28 is in condition for allowance.

Conclusion

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In view of the foregoing amendments to the claims and the accompany remarks, applicants solicits entry of this amendment and allowance of the claims. If, however, the Examiner believes such action cannot be taken, the Examiner is invited to contact the applicant's attorney at (609) 734-6820, so that a mutually convenient date and time for a telephonic interview may be scheduled.

No fees are believed due with regard to this Amendment. Please charge and fee or credit any overpayment to Deposit Account No. 07-0832.

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